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Item Number: 15

Addendum StartPage: 0

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PUBLIC UTILITY COMMISSION

**PROJECT NO. 51871**

REQUEST FOR COMMENTS ON THE § PUBLIC UTILITY COMMISSION  
LOW SYSTEM-WIDE OFFER CAP §  
§ OF TEXAS

**COMMENTS OF EXELON GENERATION COMPANY LLC**

Exelon Generation Company, LLC (“Exelon”)<sup>1</sup> respectfully files these Comments with the Public Utility Commission of Texas (“Commission” or “PUC”) responding to the Commission’s request for comments regarding the low system-wide offer cap (“LCAP”).

Exelon believes that the LCAP should be set consistent with the formula included in the Texas Administrative Code and that decision should be made immediately in order to provide certainty to the market. Exelon cautions the Commission against changing the operation of specific rules and altering settled expectations without considering the broader impact rule changes have on overall market performance and expectations. Instead, Exelon recommends that the Commission identify related issues as well as seeking stakeholders’ identification of issues, initiating an informal conference/workshop process pursuant to APA Sec. 2001.031 in which the array of issues and potential solutions are identified, and their impacts (including effects on other aspects of the market) are thoroughly explored. At the conclusion of the conference/workshop process, the Commission would be in a position to initiate a rulemaking proceeding in which

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<sup>1</sup> Exelon Generation Company, LLC, through subsidiaries, owns 3,620 MWs of gas-fired capacity and 87 MWs of wind power in Texas. Exelon’s subsidiary, Constellation New Energy, Inc., also provided approximately 14 TWh of competitive retail supply to residential and commercial/industrial load in 2020. Exelon Generation Company, LLC also provides wholesale supply to a number of Texas cooperatives and municipalities.

consensus may already have been achieved on a number of important issues, narrowing the matters to be litigated in the rulemaking.

## **INTRODUCTION**

During a historic winter storm the week of February 14, ERCOT was forced to order firm load shed to avoid a catastrophic system-wide blackout, and in response on February 15, 2021 the Commission issued an Order that administratively changed the market clearing price for the duration of the load shed period, and into the morning of February 19. The Commission ordered ERCOT to reset energy prices to the system-wide offer cap specified in 16 Tex. Admin. Code § 25.505(g)(6)(B) of \$9,000 per MWh.

Prior to the open meeting on February 15, ERCOT had informed the Commission that generator revenues were approaching the peaker net margin (PNM). After crossing the threshold, the system-wide offer cap is to be set at the LCAP, with is the greater of \$2,000 per MW per hour or 50 times the natural gas price index value determined by ERCOT, expressed in dollars per MWh and dollars per MW per hour.<sup>2</sup> Recognizing that administratively setting energy prices to the system-wide offer cap would soon lead to generator revenues exceeding the PNM threshold, and that due to the exceptionally gas prices at the time, an LCAP based on 50 times the natural gas price index value may well exceed the high system-wide offer cap of \$9,000 per MWh and \$9,000 per MW per hour, the Commission ordered that ERCOT suspend any use of the LCAP until the Commission's next scheduled open meeting on February 25.<sup>3</sup> Following stabilization of the natural gas prices and the end of the winter event leading to the reliability crisis, on March 3, 2021,

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<sup>2</sup> 16 Tex. Admin. Code 25.505(g)(6).

<sup>3</sup> Orders Feb 15 and 16, Docket No. 51617 (transferred to Docket No. 51812).

the Commission terminated the LCAP's suspension and ordered ERCOT to resume its use when administering the scarcity pricing mechanism.<sup>4</sup>

Now that we are out of the immediate crises as to the security and reliability of the grid, the Commission has posed the following questions:

1. Should the Commission amend its rules to adjust the LCAP?
2. If the Commission amends its rules to adjust the LCAP, what specific adjustments should it make?
3. If the Commission amends its rules to adjust the LCAP, when should these adjustments take effect?

### **RECOMMENDATIONS**

The Texas electricity market has been years in the making and is the result of multi-party deliberations and negotiations, and carefully considered tradeoffs. The LCAP issue is one of many interrelated issues that has been carefully considered and then decided over the years, in conjunction with other rules. Other, related issues relevant to the winter event include, for example:

- What triggers \$9k prices under the RDPA
- How the firm load shed MW are calculated and communicated to the market
- How the PNM works
- Trigger for the PNM
- When the PNM resets
- Definition of the HCAP

If the Commission wants to evaluate permanent changes to its rules or other aspects of the ERCOT market design, Exelon suggests that the correct venue for addressing such complex matters at the PUCT is through an informal conference/workshop on these overlapping issues,

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<sup>4</sup> Order March 3. Docket No. 51812.

where a diverse set of viewpoints, including expert testimony, can be heard and an evidentiary record developed, before making any changes. Exelon believes that the recent crisis has demonstrated that there is a very real danger to the market, to market participants, and to consumers in altering the carefully crafted rules and protocols without thorough analysis as to the specific issue, and how changes to that one rule may affect other aspects of the market. Any prospective changes should be analyzed together rather than in a piecemeal fashion, just as piecemeal ratemaking is disfavored. *See, e.g., Application of Southwestern Electric Power Company for Authority to Change Rates*, PUC Docket No. 40443, Finding of Fact 319 (Oct. 2, 2013) (denying SWEPCO's proposal to include purchased power capacity costs in fuel costs as overbroad and "impermissible piecemeal ratemaking."). *See also In re Lone Star Transmission, LLC*, PUC Docket 40020, Order at FoF 157 (Nov. 7, 2012) (holding that Lone Star's proposed ad valorem tax rider constituted "impermissible piecemeal ratemaking.")

The LCAP issue is one piece of a much larger collection of issues that need to be addressed holistically. As noted by the Commission in Docket No. 51812, the natural gas price index has now stabilized and the LCAP is not expected to exceed the HCAP going forward. Accordingly, there is no urgency in making permanent changes immediately, and every reason to consider this issue along with other potential complementary or competing reforms in a broader proceeding.

### **CONCLUSION**

For the foregoing reasons, Exelon respectfully requests that the Commission promptly rule that it will adhere to current LCAP provisions, and open an informal conference/workshop process to explore the appropriate value for the LCAP on a prospective basis, along with questions regarding related market rules and protocols.

Respectfully submitted,

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*On behalf of Exelon Generation Company, LLC*